

AG Contract No.: KR04-1595TRN  
ADOT ECS File No.: JPA 03-117  
Project: SR 51: Bell Road - Pima Freeway  
Landscape Maintenance  
TRACS: H 5385 03C & 04C  
Budget Source Item No: 82804 & 83504  
City No.: 114645

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF PHOENIX

THIS AGREEMENT is entered into this 17th of February, 2005 pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PHOENIX, acting by and through its CITY MANAGER, (the "City")

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Chapter II, Section 2. (i) of the City Charter to enter into this Agreement and has by Resolution or City Ordinance, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City are in mutual Agreement to landscape areas within the right-of-way of State Route 51, from Bell Road to Pima Freeway (SR 101L) herein after referred to as the "Project", as shown on the Maintenance Exhibit A, attached hereto and made a part of. The responsibility by each of the parties is defined in this Agreement under the Scope of Work.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

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NO. 27380  
Filed with the Secretary of State  
Date Filed: 02/17/05

Janice K. Brewer  
Secretary of State

By: Darryl J. Harsenwald

## **II. SCOPE OF WORK**

### **1. The State will:**

- a. Prepare and provide design plans, specifications and other such documents and services required for construction of the Project and submit same to the City for their review.
- b. Call for bids and award one or more construction contract(s) for the Project. Administer it and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by the Project delays attributable to the State.
- c. Upon completion of the Project, maintain the landscaping and irrigation system, and pay for electrical power to operate the State's irrigation controllers all generally within the Control of Access, as designated in the attached Maintenance Exhibit A.

### **2. The City will:**

- a. Review the design documents required for construction of the Project and provide comments to the State as appropriate.
- b. Be responsible for any costs, for additional work requested by the City, associated with the Project. Be responsible for any contractor claims for extra compensation attributable to the City.
- c. Provide potable water in mains up to or within the State's right-of-way at its own expense.
- d. Furnish all potable water for the Project, and provide potable water at the design pressures and quantities stated in the plans. During installation, construction phase, and all water thereafter necessary to properly maintain the landscape, all at the City's expense. The City's obligation to furnish potable water for the Project may be consistent with any water conservation or drought management actions or plans taken by or adopted by the City.
- e. Pay or waive any water development fees.
- f. Install the water meter(s) at the request of the State's contractor, at the State's expense.
- g. At the conclusion of the Contractor maintenance and warranty period, referred to in the Project Construction contract as Landscape Establishment, maintain all landscape, irrigation system up to and including the water meter, generally outside the control of access as designated on the Maintenance Exhibit "A", including all testing, adjusting, repairing and operation of the irrigation system. Assume responsibility of paying for electrical power necessary to operate the City's irrigation controllers and any booster pumps.
- h. Maintain the landscaping in areas designated on the attached Maintenance Exhibit A. Landscape maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices, keeping all areas free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping.
- i. Conduct all maintenance work in a manner to minimize traffic congestion and interference with through traffic. All traffic controls shall meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual." Obtain an encroachment permit through the State's Phoenix Maintenance Permits District Office for all planned maintenance work within the State's control of access.

### **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion and reimbursements; provided herein. However, any provisions for landscaping maintenance, electrical power, and water provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon sixty-days (60) written notice to either party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said landscaping

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this Agreement and both the City and the State shall be afforded the rights, interests and privileges as provided therein, provided however, that should the City make a reasonable request to inspect the records of the State relating to this Project, such records will be produced at a time and location convenient to both parties.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereby agree to abide by Arizona Revised Statutes Section 12-1518 as applicable

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State and the City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State or the City as applicable at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised, and the State and the City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17th Avenue, Mail Drop 616E  
Phoenix, AZ 85007-3212

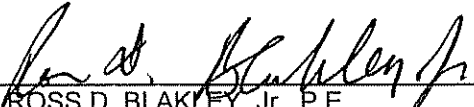
City of Phoenix  
Street Transportation C/O Ray Dovalina  
200 W. Washington Street 5<sup>th</sup> Floor  
Phoenix, AZ 85003-1611

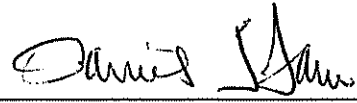
9. In accordance with Arizona Revised Statutes Section 11-952, (D) attached hereto is the written determination of each Party's legal counsel the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

**CITY OF PHOENIX, an Arizona Municipal Corporation**, Frank Fairbanks, City Manager

**STATE OF ARIZONA**  
Department of Transportation

By   
ROSS D. BLAKLEY, Jr., P.E.  
Acting Street Transportation Director

By   
DAN LANCE, P.E.  
Deputy State Engineer Valley Transportation

ATTEST

By   
VICKY MIEL  
City Clerk



STATE HIGHWAY  
SR 51, BELL RD TO PIMA FREEWAY (SR101L)  
LANDSCAPE & IRRIGATION  
RAM-051-A-505  
051 MA 014 H5385 03C

FINAL MAINTENANCE EXHIBIT

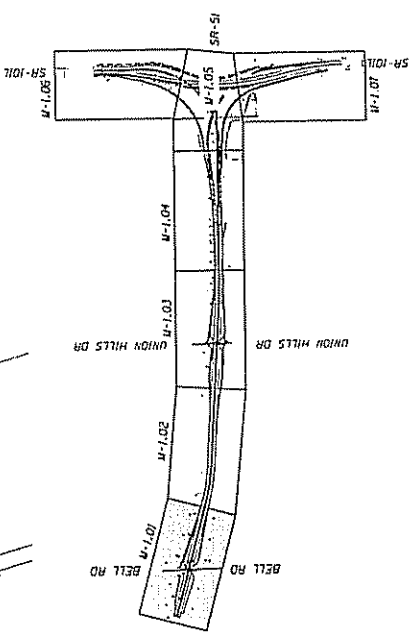
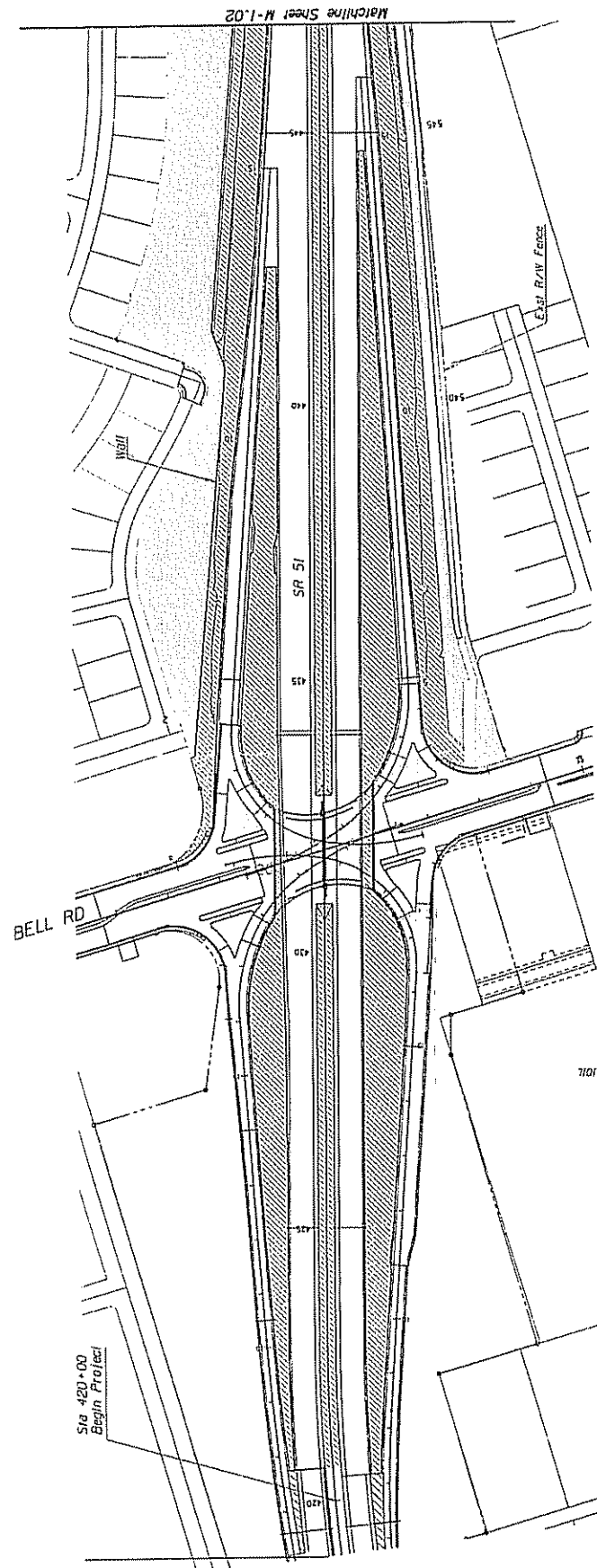
October 6, 2003



TOTAL MAINTENANCE AREA		
ADOT	86 ACRES	
CITY OF PHOENIX	10 ACRES	

PLAN	SECTION	PROJECT NO.	SHEET NO.	TOTAL SHEETS	DATE
9	1	051 A 505	1	7	051 MAR 014

NOTE:  
See J.P.A. No. 99-170  
for adjacent ADOT and  
city areas south of bell road.



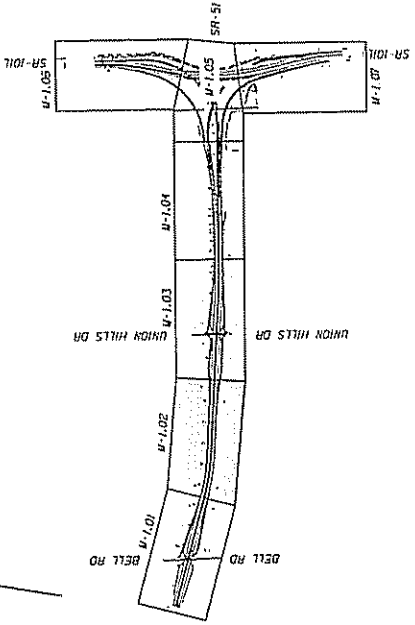
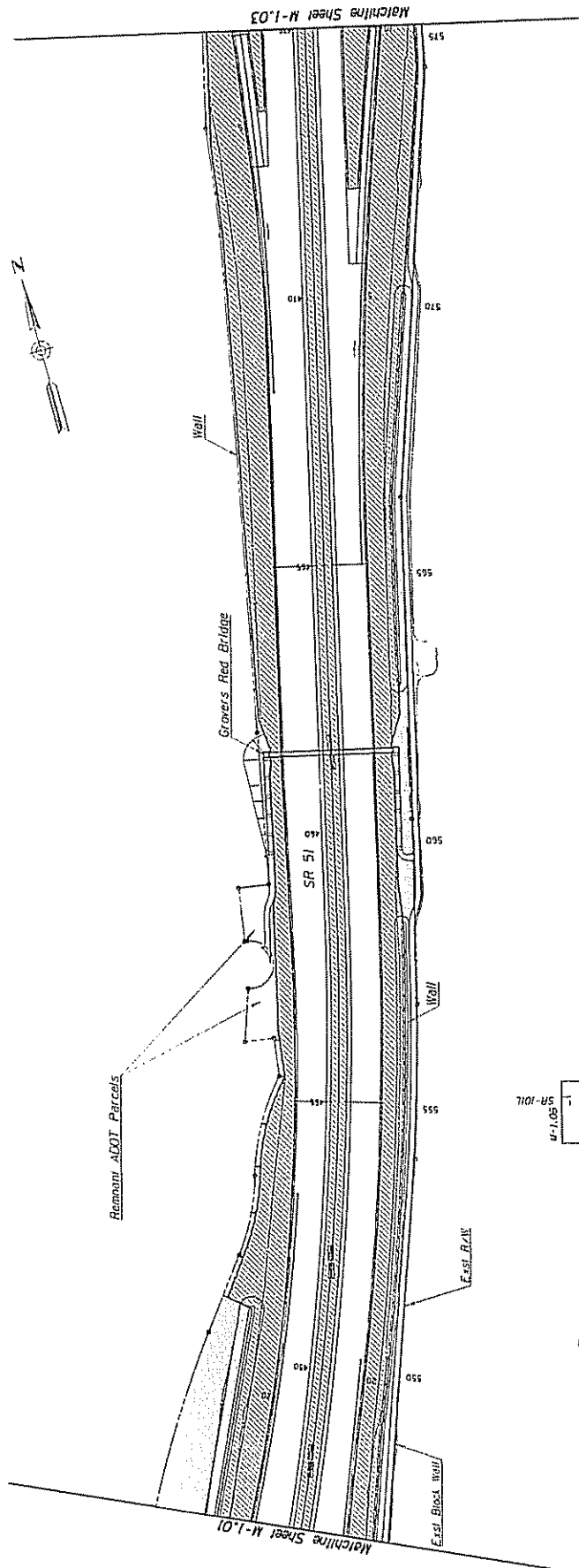
J.P.A. No. 03-117

SYMBOL	ADOT	City

ARIZONA DEPARTMENT OF TRANSPORTATION INTERSTATE TRANSPORTATION DIVISION ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
DATE: 05/01/01 DRAWN BY: J. P. A. CHECKED BY: J. P. A.	PROJECT: SR 51 TRAC NO. 45385 03C
SHEET: 1 OF 7	

PROJECT NO.	DATE	BY	CHKD	DATE	BY
9	051 A 505	2	7		
	051 MA D12				

NOTE:  
See J.P.A. No. \_\_\_\_\_  
for adjacent ADOT and  
city R/W areas.

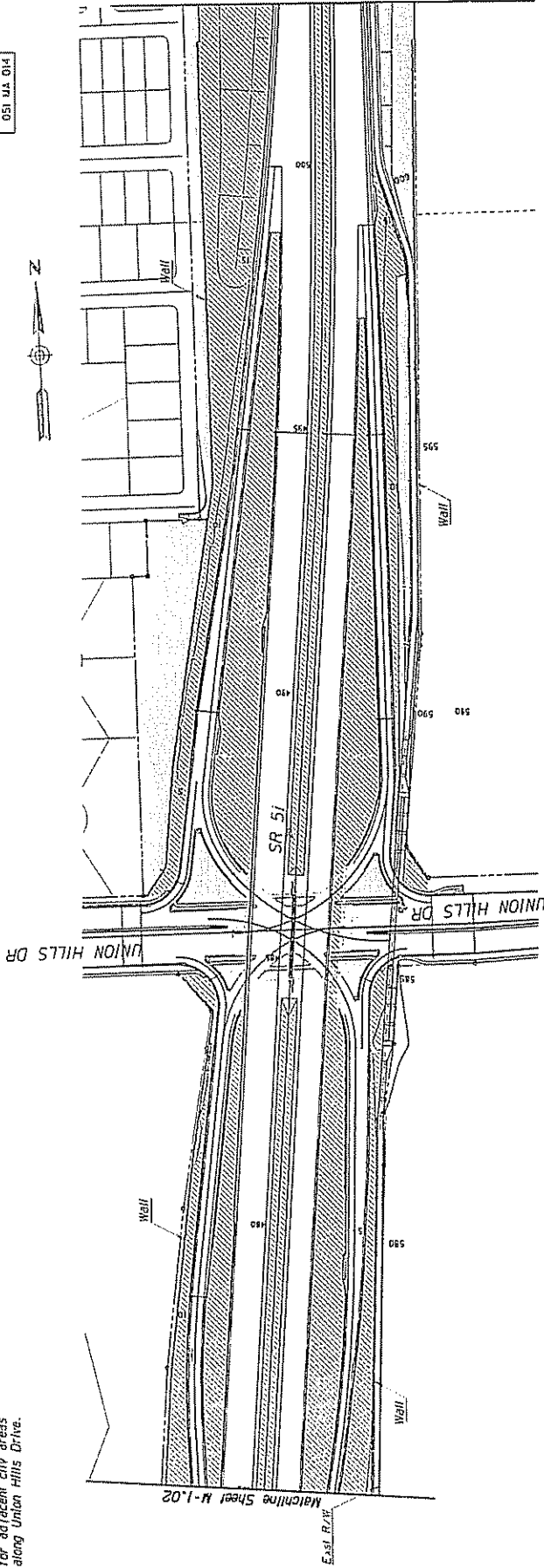


J.P.A. No. 03-117

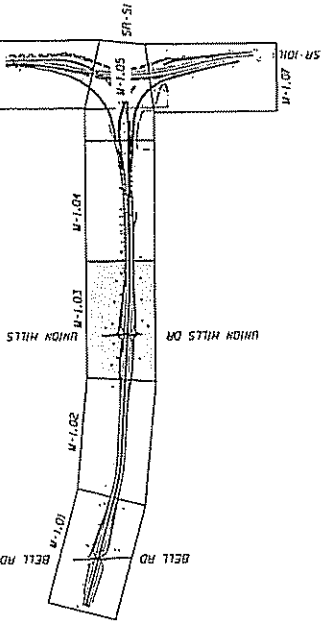
SYMBOL	ADOT	City

ARIZONA DEPARTMENT OF TRANSPORTATION	
INTERMODAL TRANSPORTATION ENERGY	
ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
PROJECT NO.	SR 51, BELL ROAD TO PIMA FREEWAY (SR 101)
TRACS NO.	P5385 03C
DATE	11/1/12
BY	OF

PROJECT NO.	DATE	BY	REVISION
051 A 505	5	1	
051 BIA 014			



NOTE:  
See J.P.A. No. \_\_\_\_\_  
for adjacent city areas  
along Union Hills Drive.



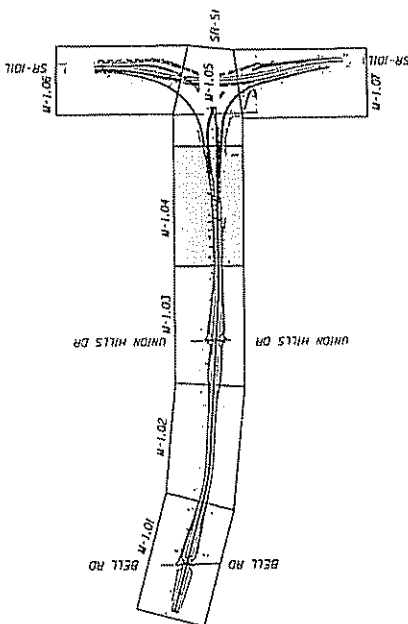
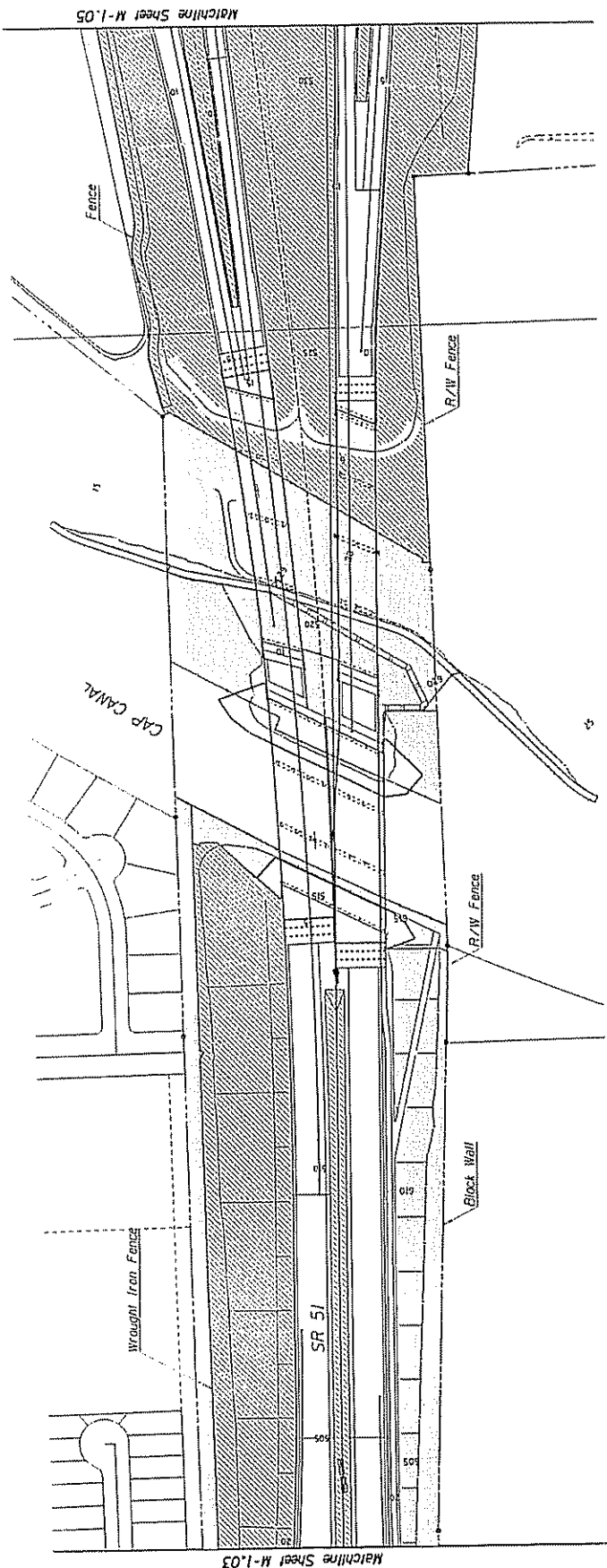
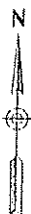
J.P.A. No. 03-117

SYMBOL	ADOT	City

ARIZONA DEPARTMENT OF TRANSPORTATION	
INTERMODAL TRANSPORTATION DIVISION	
ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
SR 51 SR 51, BELL ROAD TO PHUA FREEWAY (SR 101) TRACS NO. H5385 03C	CDG 051 A 505 051 BIA 014
OF _____	



PROJECT NO.	051 A 503	DATE	4	7
STATE	ARIZ.	PROJECT	4	7
SECTION	051 MA 014			



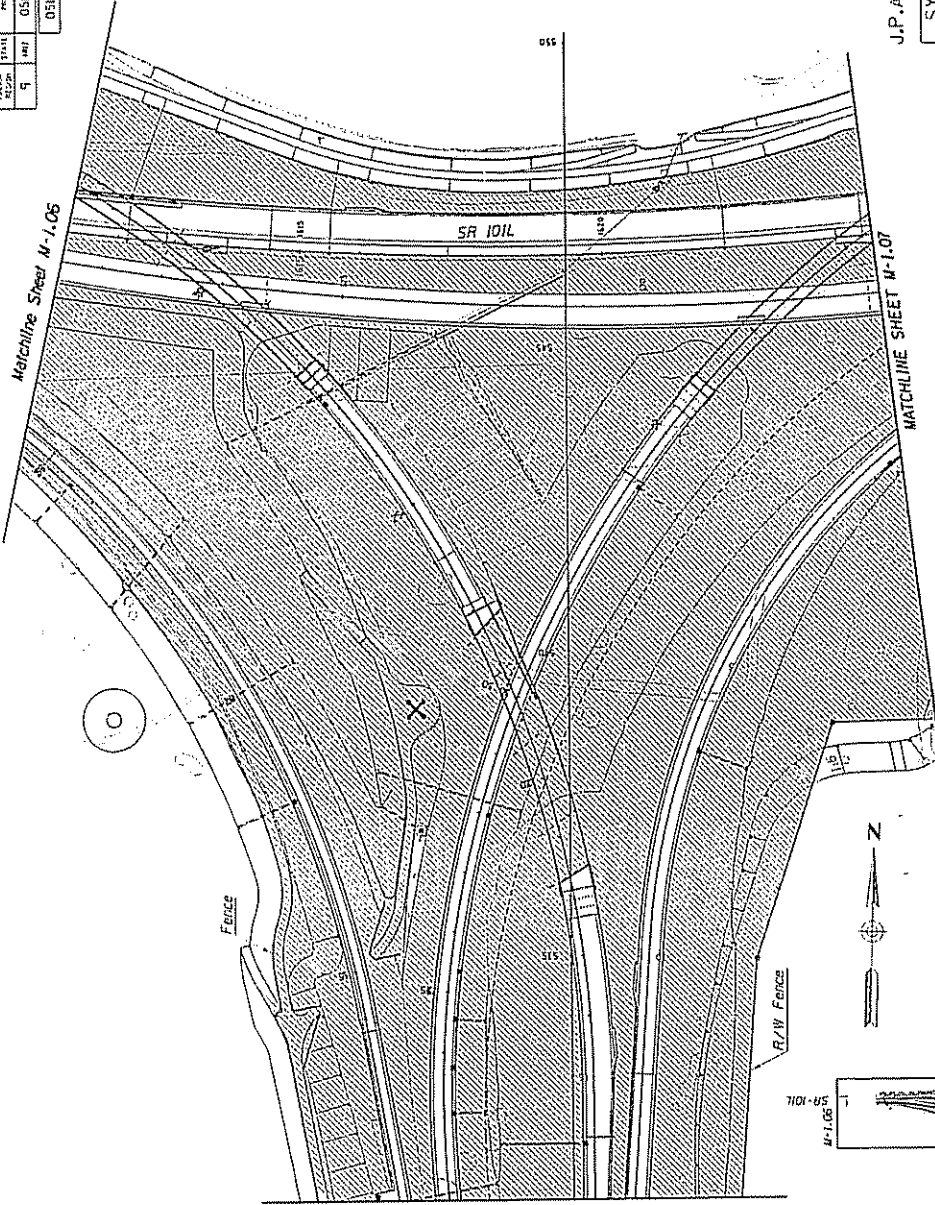
J.P.A. No. 03-117

SYMBOL	ADOT	City
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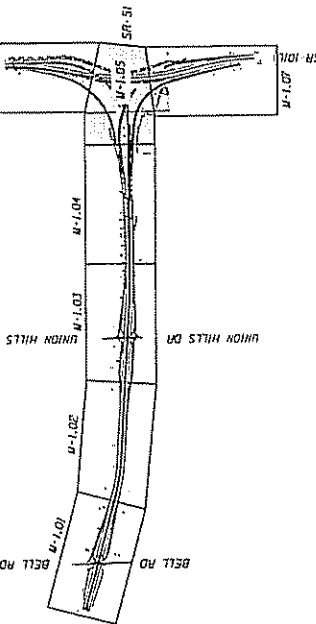
ARIZONA DEPARTMENT OF TRANSPORTATION INTERSTATE INSPECTION DIVISION ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
PROJECT NO.	SR 51 SR 51 BELL ROAD TO PINA FREEWAY (SR 101)
TRACS NO.	H5185 03C
DATE	03-117

DATE	DATE	PROJECT NO.	DATE	DATE
9	9	051 & 505	5	1
		051 MA 014		

Matchline Sheet M-1.05



Matchline Sheet M-1.04



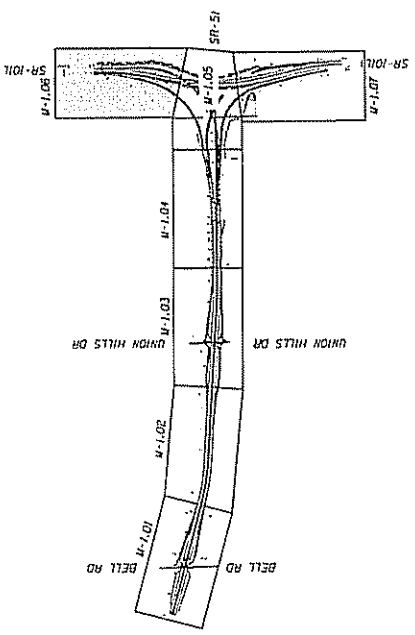
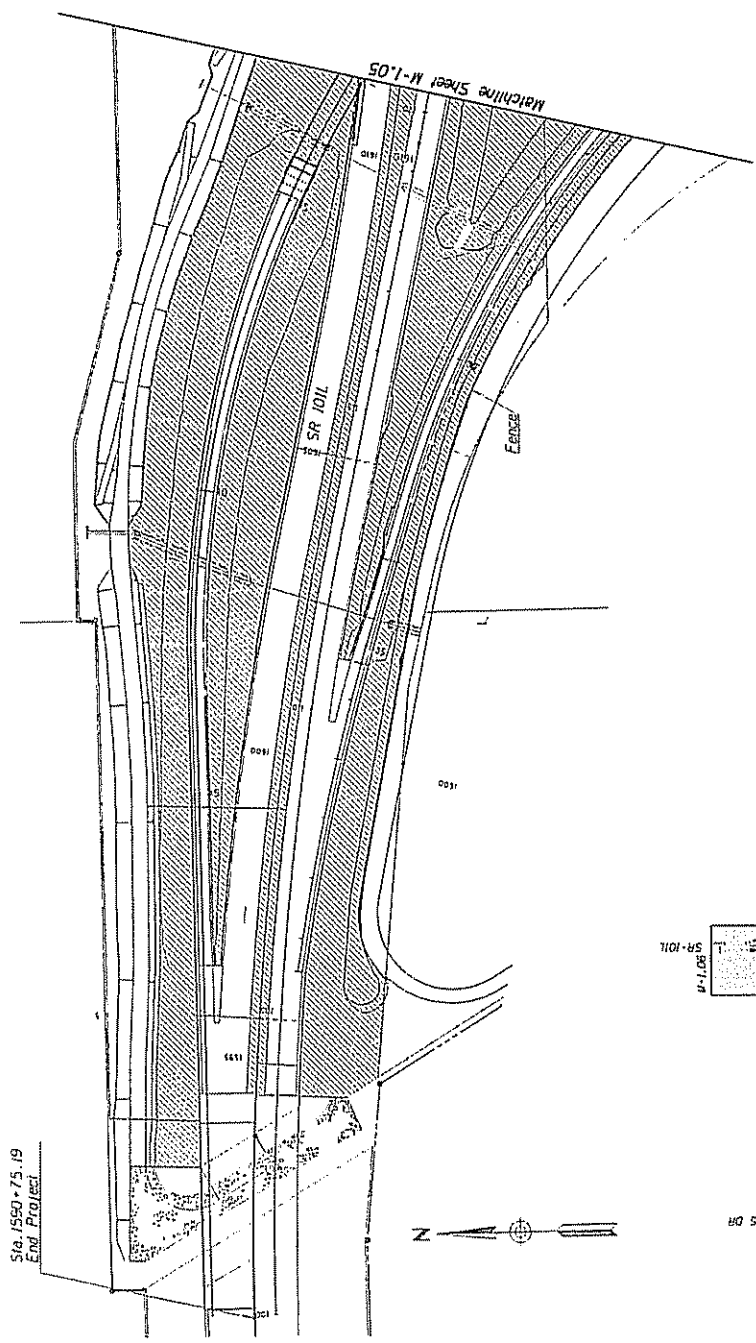
J.P.A. No. 03-117

SUBMITTAL	ADOT	City

ARIZONA DEPARTMENT OF TRANSPORTATION HIGHWAY TRANSPORTATION DIVISION ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
NAME SR 51 SR 51, BELL ROAD TO PIMA FREEWAY (SR 101L)	SCALE 1" = 100'
DATE 05/01/05	DRAWN BY J. P. A.
CHECKED BY J. P. A.	DESIGNED BY J. P. A.
TRACS NO. H5385 03C	
OF	

STATE	PROJECT NO.	DATE	BY
9	051 A 505	5	7
	051 A2 014		

NOTE:  
See J.P.A. No. 03-114 for adjacent  
areas west of Sta 1550+75.19 and  
areas north of SR 101L.



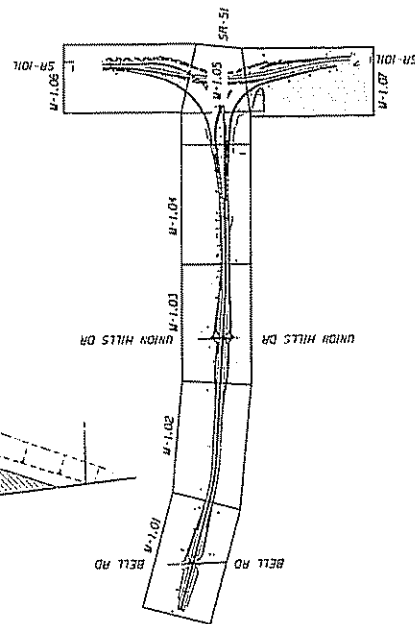
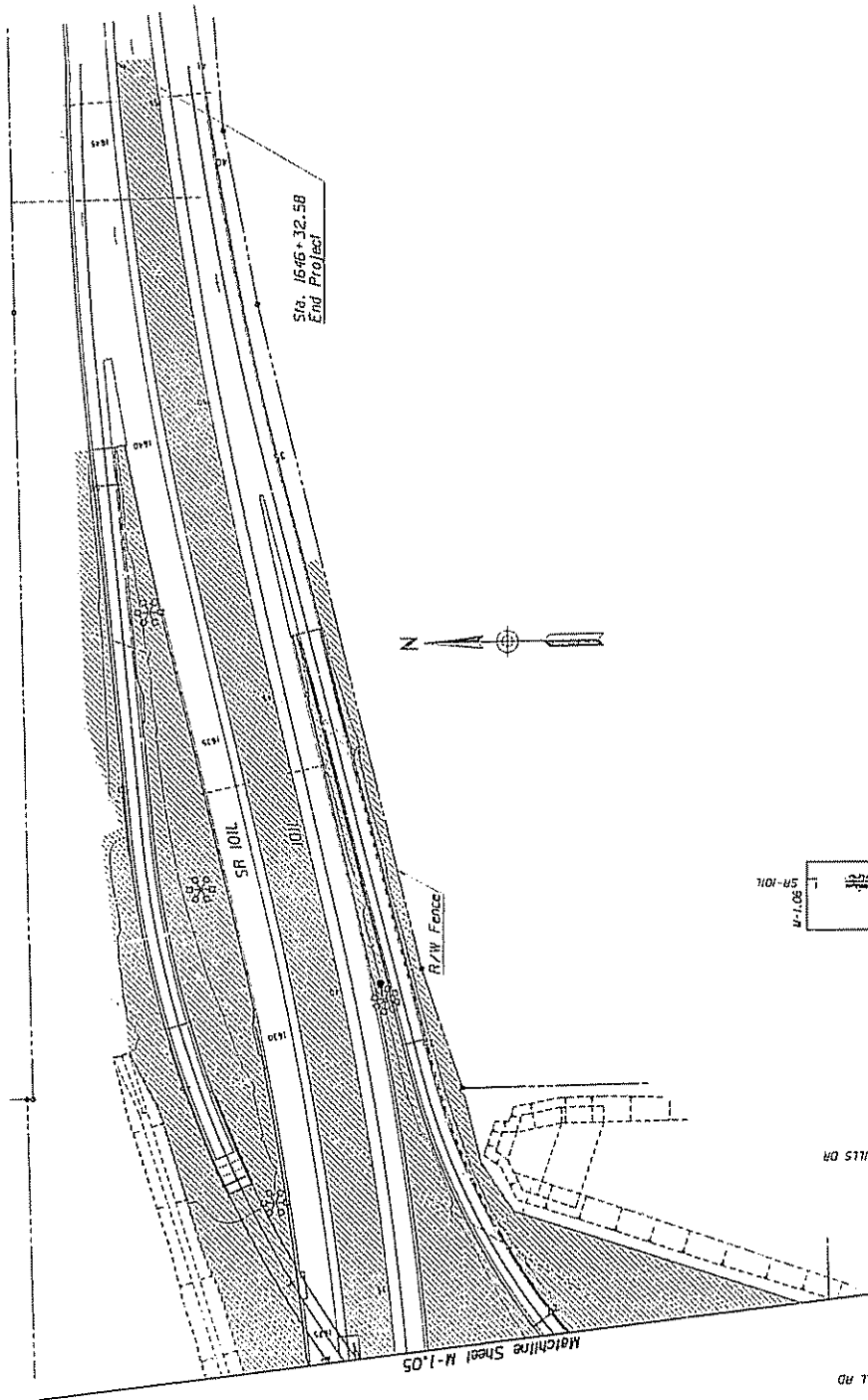
J.P.A. No. 03-117

SYMBOL	ADOT	City

ARIZONA DEPARTMENT OF TRANSPORTATION INTERIOR TRANSPORTATION ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
DATE: 05/04/05 DRAWN: [blank] CHECKED: [blank]	FILE: 05/04/05 DATE: 05/04/05 TIME: 05:00
PROJECT: SR 51, BELL ROAD TO PINA FREEMAN (SR 101L) TRACS NO. 15385 03C	
OF	

DATE	BY	PROJECT NO.	SHEET NO.	TOTAL SHEETS
9	Q	051 A 505	7	7
Q51 MA 014				

NOTE:  
See J.P.A. No. 00-114 for adjacent  
areas east of Sta 1646+32.58 and  
areas north of SR 101L.



J.P.A. No. 03-117

SYMBOL	ADOT	City

ARIZONA DEPARTMENT OF TRANSPORTATION INTERNAL TRANSPORTATION DIVISION ROADSIDE DEVELOPMENT SECTION	
MAINTENANCE EXHIBIT	
SR 51	SR 51 BELL ROAD TO PINA FREEWAY (SR 101L)
TRAFFIC NO.	HSJBS 03C
DATE	0-1-07
OF	07

**CITY OF PHOENIX  
REQUEST FOR COUNCIL ACTION**

Complete this form per O.P. 1.906 and A.R. 4.11.  
Refer to the City Council Agenda Process Reference Guide for Assistance

<b>ACTION REQUESTED</b>	Formal Action:		OR	Legal Document:	
	Bid Award	<input type="checkbox"/>		Ordinance	<input type="checkbox"/>
	License Application	<input type="checkbox"/>		Resolution	<input checked="" type="checkbox"/>
	Public Hearing	<input type="checkbox"/>		Emergency Clause? (for use only w/ord. or res. requests)	<input type="checkbox"/>
	Other	<input type="checkbox"/>			
<b>IMPACTED DISTRICT(S)</b>	DISTRICT 2		<b>ADDITIONAL BACKUP MATERIAL SENT UNDER SEPARATE COVER?</b>		<input type="checkbox"/>
<b>SUBJECT</b>	AGREEMENT WITH ARIZONA DEPARTMENT OF TRANS. - LANDSCAPE MAINTENANCE ON SR 51, BELL RD TO LOOP 101 FREEWAY				
<b>REQUESTED AGENDA DATE</b>	10/6/2004	<b>PREPARED BY</b>	Name	Briana Leon	
			Department	Street Transportation	
			Phone	495-3697	
<b>APPROVALS</b>	Division Head:	J. Donald Herp	If prepared for another department: Department Name:		
	Department Head:	Thomas E. Callow, P.E.			
				Approval:	
<b>BID AWARD INFORMATION</b>	Bid Surety Required?	<input type="checkbox"/>	Performance Surety Required		
	Submitted by Low Bidder?	<input type="checkbox"/>	Amount?		
	Contract Required?	<input type="checkbox"/>	Requisition No.		
<b>CONTRACT INFORMATION</b>	Contract Amendment? <input type="checkbox"/>				
	If Yes, Current Contract No.				
	Approved by:	Ordinance	<input type="checkbox"/>	on Date:	
		Resolution	<input type="checkbox"/>		
		Formal Action	<input type="checkbox"/>		
<b>BUDGET INFORMATION</b>	\$ 27,000.00		To Be Encumbered? <input type="checkbox"/>		
	Source of Funds:		Fiscal Year?		
	Fund Center(s) (SAP-FM):		6300004200		
	Commitment Item(s) (SAP-FM):		510330		
	Availability of Funds Approval		Gayle Webb		
<b>CITY MANAGER'S OFFICE</b>	Approved by Sheryl Sculley			CM Control No. 81	
<b>CITY CLERK DEPARTMENT</b>	Council Action Taken: Adopted				
	Ordinance Number:		RCA No. 46371		
	Resolution Number: 20156		Contract No.		
	Comments:		Meeting Date 10/6/2004		
			Item No. 77		

**ITEM****DISTRICT 2****AGREEMENT WITH ARIZONA  
DEPARTMENT OF TRANS. -  
LANDSCAPE MAINTENANCE  
ON SR 51, BELL RD TO LOOP  
101 FREEWAY**

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Request to authorize the City Manager to enter into an agreement with the Arizona Department of Transportation (ADOT) for landscape maintenance on State Route 51 from Bell Road to Loop 101.

ADOT will construct landscaping along SR 51 from Bell Road to Loop 101.

The City shall furnish all water for landscape installation during the construction phase and all water necessary thereafter to properly maintain the landscape.

After construction, the State will maintain the landscaping and irrigation system within the access control limits, and the City shall maintain the landscaping and irrigation system outside of the access control limits.

**Financial Impact**

The estimated City cost to furnish water for this new section is approximately \$27,000 per year.

**Citizen Notification**

ADOT has held public meetings to receive citizen input on the design of the freeway interchange, including the landscaping.

RESOLUTION NO. 20156

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA THROUGH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR LANDSCAPE MAINTENANCE ALONG STATE ROUTE 51 FROM BELL ROAD TO STATE ROUTE 101L.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. The City Manager is authorized to enter into an intergovernmental agreement with the State of Arizona through the Arizona Department of Transportation for landscape maintenance along State Route 51 from Bell Road to State Route 101L.

PASSED by the Council of the City of Phoenix this 6th day of October, 2004.



MAYOR

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

REVIEWED BY:

  
City Manager



ATTORNEY APPROVAL FORM

FOR THE CITY OF PHOENIX

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PHOENIX, an agreement among public agencies, which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954, and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 27 day of January, 2005

Jane U. Sean  
ACTING Attorney  
MB





OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8859


**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR04-1595TRN (**JPA 03-117**), an Agreement between public agencies, i.e., The State of Arizona and The City of Phoenix, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: February 10, 2005

TERRY GODDARD  
Attorney General

  
\_\_\_\_\_  
Jeffrey T. Murray  
Assistant Attorney General  
Transportation Section